

Claims Rejections - Double Patenting

Claims 1-12 and 19-26 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,258,021.

This rejection was made in a prior Office Action. In response to that prior rejection, applicant submitted a Terminal Disclaimer duly executed by the undersigned attorney of record for applicant.

The Examiner contends that the submitted Terminal Disclaimer does not comply with 37 C.F.R. § 1.321(b)(3) because the person who has signed the disclaimer has not stated the extent of his/her interest, or the business entity's interest, in the application/patent.

In response to the Examiner's (renewed) rejection of the claims under the judicially created doctrine of obviousness type double patenting and the Examiner's reiterated contention that the previously submitted Terminal Disclaimer does not comply with 37 C.F.R. § 1.321(b)(3), applicant encloses herewith a substitute Terminal Disclaimer. The enclosed Disclaimer includes the following recitations not present in the previously submitted Disclaimer:

The present extent of WILK PATENT's ownership interest in application No. 09/435,525 is complete and undivided: WILK PATENT is presently the owner of the entire right, title and interest in application No. 09/435,525.

The present extent of WILK PATENT's ownership interest in U.S. Patent No. 6,258,021 is complete and undivided: WILK PATENT is presently the owner of the entire right, title and interest in U.S. Patent No. 6,258,021.

The undersigned attorney for applicant has no interest, no right, and no title in application No. 09/435,525 or in issued Patent No. 6,258,021.

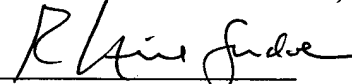
In conclusion, the obviousness-type double patenting rejection of claims 1-19 is deemed to be overcome by the concurrent submission of a substitute Terminal Disclaimer. Accordingly, claims 1-12 and 19-26 appear to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Inasmuch as applicant has already paid the fee for submission of a Terminal Disclaimer, applicant asserts that no fee is due in connection with this Response. However, should applicant be mistaken, please charge any fees due to Deposit Account No. 04-0838. A copy of this Response is enclosed for deposit account charging purposes.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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